

STATE OF CALIFORNIA
VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
VICTIM COMPENSATION PROGRAM REGULATIONS

Title 2, §§ 649.32

Changes made from the first 15-day public comment period to the second 15-day public comment period may be seen in ~~dotted underline~~ and ~~strike-out dotted underline~~ format. Those changes made to the regulation text from the 45-day public comment period to the first 15-day public comment period may be seen in double underline and ~~double strike-out~~ format. All proposed changes made during the 45-day public comment period are in underline and ~~strike-out~~ format.

§ 649.32. Verification of Income or Support Loss

(a) The Board shall only pay income or support loss if the victim was employed at the time of the qualifying crime. The Board will not pay income or support loss if the victim, or derivative victim in the limited cases where a derivative is eligible for income loss, had only a job offer at the time of the qualifying crime but had not begun working.

(b) All cash payments or reimbursement for income or support loss shall be necessary as a direct result of the qualifying crime.

(c) Income loss includes, but is not limited to, time lost from work for medical or mental health appointments necessary as a direct result of the qualifying crime.

(d) Acceptable evidence of income loss shall be in the form of one or more of the following unless the individual is in a particular situation as stated in subsection (e) below:

(1) documentation from the California Franchise Tax Board (FTB) for the tax year preceding the date of the qualifying crime, or

(2) documentation from the Board of Equalization, Social Security, and/or the California Employment Development Department for the tax year preceding the date of the qualifying crime or during the year of the qualifying crime and, or

(3) a statement under penalty of perjury from the employer acknowledging that the applicant was employed, the dates of employment, the time missed from work, the rate of pay, and any benefits the applicant received from the employer; and copies of wage check stubs for a minimum period of one week immediately preceding the date of the qualifying crime, along with an item from (d)(1) or (d)(2) unless the individual is in the particular situation as stated in either subsection (e) or (f).

(e) If the victim is self-employed then (d)(1) will apply unless the victim cannot provide documentation from FTB because of the date of entrance into self-employment; in this case (d)(2) will apply. If the victim is a first time job holder or returning to the workforce, either (d)(1), (d)(2), or (d)(3) may be used as evidence of income loss.

~~(e) If the victim is a first time job holder or returning to the workforce, either (d)(1), (d)(2), or (d)(3) may be used as evidence of income loss. If (d)(3) is used as evidence of income loss, an additional item from (d)(1) or (d)(2) is not required.~~

~~(f) If the victim is self-employed then (d)(1) will apply unless the victim cannot provide documentation from FTB because of the date of entrance into self-employment; in this case (d)(2) will apply.~~

~~(f)(g) when~~ If the qualifying crime occurred at the work place, documentation from a workers' compensation carrier showing earned income at the time of the qualifying crime and benefits paid or available and the duration of payment must be submitted.

~~(g)(h)~~ The treating medical or mental health provider may verify disability within the scope of his or her licensure. A statement of disability provided by the treating medical or mental health provider should contain sufficient information to verify the disability period that is a direct result of the qualifying crime and shall include information concerning the current diagnosis, prognosis for recovery, the extent and expected duration of the disability, and certification that the disability resulted directly from the qualifying crime.

(1) For physical injuries, a disability statement may come from the following treating providers: medical doctor, osteopath, optometrist, dentist, podiatrist, or a chiropractor. If a chiropractor provides the disability statement, it will only be accepted for the period of time the chiropractor is providing treatment.

(2) For emotional injuries, a disability statement may come from any treating licensed social worker, marriage and/or family therapist, licensed clinical psychologist or treating psychiatrist for a disability period of six months. When the total disability period exceeds six months, the disability statement must be completed by a treating licensed clinical psychologist or psychiatrist.

~~(f3)~~ A disability statement should contain sufficient information to verify the disability period that is a direct result of the qualifying crime. When a disability statement pursuant to subsection (g) is not available or does not contain sufficient information to verify the disability period, the Board may will consult the following methods may also be used sources to verify a disability time period to ensure the disability time period is appropriate, including but not limited to:

- The Medical Disability Advisor: Workplace Guidelines for Disability Duration (most recent edition)
- WebMD, or other informational internet sources

~~(g)(h)~~ The maximum income loss cannot exceed the statutory time period in Government Code section 13957.5, even if there are gaps in the victim's disability, or other reimbursement sources which partially or fully cover any income or support loss.

~~(c) Evidence of income loss may include but not be limited to, documentation of earnings immediately preceding the date of the qualifying crime such as copies of all wage check stubs for periods immediately preceding the date of the qualifying crime, or copies of all state and federal income tax returns filed by the victim or applicant for the tax year immediately preceding the date of the crime or during the year of the crime, if available,~~

~~or a Statement of Wages or Income as used to file with federal or state taxing authorities such as a W-2 IRS form actually filed with the taxing authorities, or a statement signed by the employer attesting to the payment of wages or income to the victim which statement shall include the name, telephone number and address of the employer or person who paid or would have paid the wages or income along with the employer's Federal Identification Number, or wage abstract from the Employment Development Department, or a profit/loss statement for self-employed victim or application generated and signed by a certified public accountant. For a self-employed victim or applicant, the income loss will be calculated based upon the adjusted gross income.~~

~~(d) Evidence of income loss may also include payment based upon a bona fide job offer, including but not limited to a job offer on the employer's letterhead with the employer's signature and federal tax identification number stating the terms of employment, work order or contracts for jobs in progress.~~

~~(e) The treating medical or mental health provider may verify disability within the scope of his or her licensure. A statement of disability provided by the treating medical or mental health provider shall include information concerning the prognosis for recovery, the extent and expected duration of the disability, and certification that the disability resulted directly from the qualifying crime.~~

~~(1) For physical injuries, a disability statement may come from the following treating providers: medical doctor, osteopath, optometrist, dentist, podiatrist, or a chiropractor. If a chiropractor provides the disability statement, it will only be accepted for a disability period of one year.~~

~~(2) For emotional injuries, a disability statement may come from any treating licensed social worker, marriage and family therapist, licensed clinical psychologist or treating psychiatrist for a disability period of six months. When the total disability period exceeds six months, the disability statement must be completed by a treating licensed clinical psychologist or psychiatrist.~~

~~(1) A disability period is presumed for a period of up to seven days for crime-related injuries, or~~

~~(2) The shortest time period in "The Medical Disability Adviser: Workplace Guidelines for Disability Duration" (5th Edition) for physical injuries and type of work done by the victim or applicant.~~

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Sections 13957(a)(4) and 13957.5, Government Code.